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SUMMARY RECORD OF THE 1633rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Belarus (continued) (CCPR/C/84/Add.4 and Add.7; HRI/CORE/1/Add.70; CCPR/C/61/Q/BEL/3)

1. At the invitation of the Chairperson, the members of the delegation of Belarus took places at the Committee table.

2. Mr. ANDO commended the delegation for the timely submission of the report and an oral presentation which had to some extent clarified the human rights situation in Belarus. He also acknowledged the contribution courageously made by NGOs, which had enriched the factual basis for the consideration of the report.

3. The third periodic report had been submitted soon after Belarus's separation from the Union of Soviet Socialist Republics, and at that time, uncertainty had prevailed as to whether Belarus would move vigorously towards an open and democratic society or make a slow transition. When the Constitution had been adopted in 1994, hopes for democratic reform had been high. He was forced to express concern, however, at the amendment introduced in 1996, which had reversed the move towards democracy. A strong executive was certainly needed when economic conditions were difficult, but there was no justification for the negation of judicial independence or the executive's arrogation to itself of legislative power.

4. He was concerned about the relationship between the Constitutional Court and the President and endorsed the questions already raised about the requirement for registration of lawyers. Associating himself with the earlier questions on freedom of expression, association and assembly, he noted that paragraph 31 of the supplementary report (CCPR/C/84/Add.7) contained information about warnings issued to editors of a number of publications in 1996 and early 1997. He requested more information on those warnings and subsequent action or results. He understood that criminal charges had been brought against an editor of the Belarus edition of Izvestia and requested further information. The presence of Izvestia, a Russian newspaper, signified that the foreign press was available in Belarus, but he wished to know whether authorization was necessary for the distribution of foreign periodicals and newspapers. As he understood it, the State exercised strong control over printing facilities and distribution mechanisms. How did those measures affect freedom of expression?

5. Referring to the position of the Covenant in domestic law, he observed that article 8, paragraphs 1 and 3, of the Constitution seemed to signify that domestic law must not contravene universal principles of international law. A contradiction between domestic law and international norms could be subtle and complex, however, and he asked for comments on that point.

6. He understood from the explanation given in connection with the right to life that 20 per cent of the national budget went towards coping with the aftermath of the Chernobyl accident. He requested clarification why such large sums were required and how the lives of survivors of the accident were affected.

7. Ms. GAITAN DE POMBO said that following the consideration of the previous report, the Committee had observed that the implementation of the Covenant in Belarus should be analysed in the light of the dual transition towards a market economy and a democratic political regime. That comment remained relevant today, and it should also be kept in mind that political and social practices could not be transformed by decree or overnight.

8. The trends now apparent remained a matter of concern, however. She endorsed Mr. Buergenthal's comments on certain regressive tendencies and his observation that the Government's lack of political will to complement the Covenant did not augur well. In connection with the centralization of power and lack of clear delimitation of the responsibilities of the authorities, she asked for more specific information about the policies being pursued, in conformity with article 25 of the Covenant, to ensure that officials were able to carry out the specific functions allotted to them under the Constitution.

9. Had any progress been made in terms of the plurality of political parties and the manifestation of political opposition? Like other members of the Committee, she was concerned about guarantees for NGO activity and requested clarification of reports of persecution and harassment of human rights activists. Finally, she joined other members of the Committee in expressing concern about the independence of the judiciary, which was one of the pillars on which a democratic regime must be built.

10. Mr. SCHERBAU (Belarus), responding to questions about the treatment of people sentenced to the death penalty, said there were no separate prison facilities for them, but that was attributable to the unsatisfactory prison conditions in general, which the authorities were attempting to improve. As to the remark concerning the high proportion of people executed in Belarus compared with other European countries, he said that was true, and a matter of concern for the Government. The phenomenon was attributable to a sharp rise in the crime rate, and especially the incidence of serious crimes. Despite the lengthy list of offences for which the death penalty could be imposed, 99 per cent of all such decisions were handed down under a single article of the Criminal Code - article 100, on premeditated murder with aggravating circumstances. The definition of the offence was fairly broad and the death penalty was seen as an appropriate measure against particularly heinous crimes. He gave a number of examples of cases in which people had been convicted under article 100.

11. As to why the Committee had not received a single communication from a person sentenced to death in Belarus, he observed that in all cases where the imposition of the death penalty was contemplated, the services of a lawyer were provided, free of charge if necessary. Counsel was admitted to the proceedings at all stages, including sentencing and consideration by the Presidential Pardon Committee. On the whole, the level of understanding of legal proceedings among the population was not high, but efforts were being made to solve that problem.

12. Concerning strict compliance with regulations on administration of justice, particularly in death penalty cases, he observed that there was no perfect mechanism for preventing miscarriage of justice, except for the abrogation of the death penalty, which had not been decided on in his country.

Every effort was made, however, to ensure that no one was wrongly executed and that no one was convicted if there was reasonable doubt about their innocence. Appeals went from the court of first instance to the Supreme Court, and on to the Presidential Pardon Committee; they were investigated by the Office of the Procurator of the Republic. The President decided whether to issue a pardon or not on the basis of recommendations by the Presidential Pardon Committee. There were thus a number of safeguards against judicial error.

13. Regarding Presidential Decree No. 21, which would amend the Criminal Code to impose the death penalty for terrorist acts and other crimes, he said that it would soon be considered by Parliament, which could approve, reject or amend the terms of the Decree. The crimes for which the death penalty was to be imposed - terrorist acts, arson, bombing of public property - were those that resulted in the death of individuals and were the work of organized groups.

14. It had been pointed out that during the consideration of the previous report, Belarus had undertaken to reduce from 38 to 4 the number of offences carrying the death penalty. The legislative process had proceeded differently, however, and at present the death penalty could be imposed for 33 types of offence, although, as he had already stated, it was almost always for premeditated murder with aggravating circumstances. According to legislation now under consideration, the number of offences carrying the death penalty would be reduced from 33 to 10.

15. Concerning torture or cruel treatment or punishment on the part of law enforcement officials, the Criminal Code stipulated that abuse of power accompanied by violence was punishable by deprivation of liberty for three to seven years and dismissal. Cases of that sort were monitored by the Procurator's Office and investigated by the Ministry of Internal Affairs. A number of specific instances could be cited of proceedings brought against officials, including cases involving violence or the use of torture or other cruel or inhuman treatment.

16. Mr. KOLAS (Belarus), noting that a great many questions had been asked, said that the delegation welcomed the interest shown in civil and political rights in Belarus; it was to be hoped that the current analysis would have positive effects and lead to real improvements.

17. Concerning freedom of association and assembly, it had been suggested that the use of slogans and banners was prohibited. That was true only in a limited number of cases, and for a specific type of material. It had been pointed out that since the freedom of assembly was regulated by Presidential Decree No. 5, imposing an authorization requirement, it was possible for permission to hold an assembly to be refused. A distinction had to be drawn, however, between restrictions on the holding of an assembly and the outright prohibition of an assembly. Assemblies, processions, parades and demonstrations were permitted in Belarus strictly in accordance with the terms of the law. The reason was that in large populated areas like Minsk, municipal authorities must take account of the conditions in which a given meeting would take place. The effects on public transport, private transport, the operation of private business and the like must be assessed. There was no limitation on the number of participants in meetings: the information that

only meetings involving less than 40 people were authorized was false. In Minsk, meetings of thousands of people took place. There were no restrictions on videotaping of meetings: both participants and outsiders were entitled to tape freely.

18. On the question concerning special regulations for the punishment of offenders within the Ministry of Defence and the Ministry of the Armed Forces, he said the legislation relating to the armed forces set out basic standards for military personnel. There was also a disciplinary charter which laid down punishments for military personnel who violated their terms of service. With the Ministry of Defence, the Office of the Military Procurator fulfilled supervisory functions regarding the implementation of legislation on the armed forces. A military court and penal facilities also existed.

19. The activities of the Ministry of Internal Affairs were governed by specific legislation and a code of conduct, which was applied by officials to their subordinates as long as the offences required merely disciplinary action. If criminal responsibility was involved, the Procurator's Office took over the investigation.

20. It had been suggested that there was no legislation covering the activities of the so-called "secret police". The activities of the undercover investigation services were strictly and comprehensively regulated by legislation on covert actions. The activities of members of the police force were governed by provisions relating to the Ministry of Internal Affairs and the Committee on State Security. The Procurator's Office was responsible for supervising the activities of all the services involved in undercover activities.

21. Mr. ANDREEV (Belarus) observed that most of the Committee's concerns centred around the reasons for the constitutional crisis and the application in practice of the principle of separation of powers. The crisis had its roots in the accession to independence of Belarus. After the break-up of the Soviet Union, practically all power had devolved upon the Supreme Council, which had appointed judges, including those of the Constitutional Court, determined the agenda of representative bodies and drawn up the lists of legislation to be adopted, sometimes taking no account of proposals from the executive. The impact of its actions on the executive was grave, since it had arrogated to itself the right to dismiss the President and ignore legislation needed for social and economic development.

22. The reconstruction of the economy using a Civil Code dating back to times of Soviet power had proved to be an extremely complex problem, and in the absence of the necessary legal framework it had been impossible to carry out radical social, economic and political changes. The imbalance between the executive, the judiciary and the legislative authorities had thus provoked the constitutional crisis in late 1996. The President had been in the process of exercising his constitutional right to convene a referendum on the crisis when the Supreme Council had tried to block it. He referred members to written information for further details on those events.

23. As to the practical implementation of the principle of the separation of powers, he said Belarus lacked experience in the drafting of a constitution and legislation and was therefore especially grateful for the substantive comments from members of the Committee on those processes. Though a number of problems with the separation of powers persisted, functions were now in general more clearly distributed. The House of Representatives generated legislation, and its efforts had already yielded a new Civil Code covering all the new institutions in the Republic and the laws required for the functioning of a market economy. On the House's initiative, work was now proceeding on the final version of a number of codes instituting specific legal regimes in various fields. The judiciary took charge of the settlement of legal disputes, while the executive implemented the legislation adopted by the Supreme Council.

24. The President and members of the Supreme Court were appointed by the President of the Republic by agreement with the Council of the Republic; other judges were appointed by the President after joint nomination by the Minister of Justice and the Supreme Court. Appointments upon such nomination must be preceded by an examination before a board composed of members of the legal profession at the appropriate level. The initial period of appointment was five years, after which the appointment became permanent.

25. Mr. AGURTSOU (Belarus), referring to questions relating to the freedom of opinion, said that he was not aware of any cases of intimidation or persecution of journalists. The question of what constituted a State secret was regulated by a special Act which also established a procedure for bringing complaints before the courts in that connection. Replying to questions about the removal of an editor from his post, he said that the editorial board of a periodical was free to dismiss any of its employees. He was not aware of any editor having been dismissed. As far as the practice of registration of publications was concerned, he explained that it applied to the publication as such and not to separate issues. If a registration was not issued within the prescribed time limit, the applicant could bring the matter before the courts.

26. Replying to a question concerning the reasons why Belarusian periodicals were printed abroad, he said that only 5 out of some 1,000 periodicals were printed abroad, doubtless for economic reasons. He was not aware of any publication being banned or prevented from being printed inside the country. The answer to the question whether editors were State officials was no. There was no limitation whatever on information entering the country from abroad other than the Press Act he had mentioned at the previous meeting. Referring to an international conference of journalists currently taking place in Minsk, he remarked that if the situation with regard to freedom of the press in Belarus was really unsatisfactory, such a conference would not be held in the country's capital. The reason for the recent rejection of a bill on freedom of the press by the Council of the Republic was that it failed to conform to the Constitution and international norms. Lastly, replying to a question asked by Mr. Ando, he said that no legal proceedings had been instituted against the Moscow newspaper Izvestia. Anyone in Belarus could receive and distribute any foreign publication.

27. Ms. DROZD (Belarus) said that the right to enter and leave the country was enjoyed by all citizens under an Act adopted in June 1993. That right could be temporarily restricted on grounds set out in article 5 of the Act, the first among them being possession of State secrets. The question of what constituted a State secret was regulated by an Act adopted in December 1994 and published in the media. The legitimacy of a government decision under the Act could be challenged before the courts. The question of the registration of exit visas was likewise regulated by the Act of June 1993. A visa permitting a citizen to leave the country on a temporary basis remained valid for five years and a permanent exit visa for one year. Applications for exit visas in cases of special urgency were considered immediately, or at least not later than within three working days. Temporary restrictions upon the right to leave the country were not subject to appeal.

28. Replying to questions about the "Propiska" system (question 6 on the list of issues), she said that, as explained at the previous meeting, the system was being maintained for reasons of an essentially economic nature and would probably be abolished before long. As far as NGOs were concerned, there was certainly no State policy of restricting their activities. All requests and inquiries from human rights NGOs were treated with attention and respect. Replying to a specific question about the Human Rights Defence League, she said that its application for registration following the re-election of its leadership had been duly granted. Any other problem was a purely internal matter for the League, but reports appearing in the Belarusian press could be made available to anyone interested. The attack on Nadezhda Zhukova had given rise to criminal proceedings which were now in progress, and those responsible would be duly punished. Such incidents could unfortunately occur anywhere and were not the fault of the system. As for Tatyana Brozko, her administrative detention was unconnected with her activities and related to her failure to obey the orders of the militia.

29. Lastly, replying to a question concerning the publication of the fourth periodic report, she listed a number of libraries in which copies of the report had been deposited, adding that she had personally handed a copy to a representative of the Human Rights Defence League. There was no question of the report not being available to the media.

30. Mr. ANDREEV (Belarus), concluding his reply on the question of the independence of the judiciary, said that proceedings against a judge could only be instituted by the College of Magistrates. As to the appointment of judges of the Constitutional Court, he had said earlier that all 12 judges were selected by the Supreme Council, but in fact there was now a parity system whereby six judges were appointed by the Council and the other six by the President. The system was perhaps not perfect, but it took account of the principle of separation of powers.

31. The constitutional right of citizens to be defended in court was realized through the institution of the Bar. The Bar Act adopted in 1993, although regarded as one of the best in the CIS, had been shown by experience not to operate in an entirely satisfactory manner. In particular, it had offered lawyers the possibility of practising on a private basis, with the result that private lawyers frequently refused to provide assistance free of charge despite the rule that free legal aid must be available to minors,

insolvent persons and all persons accused of offences punishable by death. Another negative consequence of the Act was that the number of lawyers had not grown over the past five years, remaining at a level insufficient to ensure the realization of the constitutional right of all citizens to legal assistance. In fact, the enlargement of the legal profession had been blocked by the Bar Association for reasons of financial interest. Those were the reasons for the Presidential Decree correcting certain aspects of the Bar Act.

32. As in many other countries, the exercise of the legal profession must be licensed by the Ministry of Justice, but that did not mean that the Ministry exerted any influence over the profession. In no instance had a licence to practice been withdrawn. Of the two lawyers whose names had been mentioned by members, one had received a warning for unethical conduct and the other had chosen to leave the profession himself after receiving five warnings for failure to comply with regulations.

33. Ms. MAZAI (Belarus) said that customs officials were empowered to detain persons accused of committing an administrative offence, but were then required to refer those persons to the appropriate bodies. Replying to questions as to whether the freedom of the press did not suffer from the practice of issuing warnings to the press, she cited the example of the periodical Svoboda, which in 1994 had been a weekly publication and now appeared four times a week with a circulation up to 100,000 from 20,000. While periodicals were free to use the State presses and the State distribution system, and in many cases did so for reasons which were purely economic and not political, they were also free to use printing and distribution systems of their own. The services of telegraphic press agencies were used by most newspapers.

34. Replying to questions concerning the status of the Covenant in connection with article 3, she said that a bill currently before the National Assembly provided that in cases where the domestic law was inconsistent with international treaties, including the Covenant, the norms of international law should prevail. The bill was to be considered in the near future and she would inform the Committee of its adoption. Replying to questions about the after-effects of the Chernobyl disaster on the realization of rights under the Covenant, she said that the problem was indeed huge and urgent. The large numbers of people who had had to be resettled from the area affected by radiation included ethnic and linguistic population groups whose special rights were being protected to the best of the Government's ability. In that connection, she thanked all those countries and organizations which had helped and were still helping Belarus to cope with the consequences of the accident and to study their impact on the population.

35. Mention had been made of the President of the Republic appointing one third of the Senate. That was clearly a misunderstanding, as only eight members of the Upper House were appointed by the President. The Committee on State Security, like all other ministries and departments, operated on the basis of the legislation in force. The suggestion that it had asked the President to punish certain judges for non-collection of fines was completely unrealistic.

36. The CHAIRPERSON invited members to put additional questions to the delegation of Belarus.

37. Ms. MEDINA QUIROGA said that she had not obtained satisfactory answers to three questions she had asked in connection with article 9. How long could a person be kept in administrative detention under the Code of Criminal Procedure or under Decree No. 21? Did presidential security guards have the power of arrest? Could the forces subordinate to the Ministry of Internal Affairs detain persons and, if so, for how long? She would rephrase her question on freedom of assembly. Were all the presidential decrees referred to in the discussion the result of explicit delegation of powers? Or were they based on the second parts of articles 85 and 101 of the Constitution? She failed to understand why Decree No. 21 had had to be submitted as a bill in Parliament. Did decrees become immediately enforceable? What was their status? It looked as though the President could regulate any matter by decree; if so, that was certainly contrary to the Covenant.

38. Mr. BUERGENTHAL reiterated the three specific questions he had asked at the previous meeting concerning the new decree on terrorism which he understood to have been issued on 21 October 1997 and to have entered into force on 24 October.

39. Mr. BHAGWATI reiterated his question as to whether individual citizens could apply to the court for the purpose of declaring a presidential decree to be unconstitutional. He also wished to know under what law, on what grounds and by what procedure the President of the Republic was entitled to dismiss the President and members of the Constitution Court under article 84 of the Constitution.

40. Mr. ANDREEV (Belarus) said that the Supreme Council of Belarus had decided in 1992 to change the existing composition of courts from the president of the court and two lay judges in both civil and criminal cases to three professional judges in criminal cases, with the addition of a jury in more complicated categories of criminal proceedings. It had been intended to introduce the jury system as from 1 January 199[illegible]. But in view of the need to train both defence lawyers and prosecutors in the operation of a jury system and the lack of certain material and technical prerequisites, the introduction of the new system had been postponed until the year 2000. As a result, some categories of criminal case were still considered by the president of the court and two lay judges.

41. The president and members of the Supreme Court and the Supreme Economic Court were appointed by the President of the Republic with the consent of the Council of the Republic. Under article 18 of the Constitutional Court Act, judges could be released from their duties or dismissed at their own request, in the event of loss of Belarusian citizenship, on attainment of the age limit for a judge of the Constitutional Court, or in the event of continuation of an activity incompatible with the functions of a judge despite a warning by the Court, commission of an act incompatible with the dignity of the profession of judge or liable to discredit the Constitutional Court, conviction for an offence, or unfitness for a period of one year. The decision was taken by a majority of the judges of the Constitutional Court and by no less than two thirds of its members in the case of an act held to violate the dignity of the profession.

42. Unfortunately there was no provision in the Constitution or Constitutional Court Act enabling an individual to file a complaint of unconstitutionality against a presidential decree.

43. Administrative detention was regulated by article 242 of the Administrative Offences Code, which stated that a person who had committed an administrative offence could be held for up to three hours and a person who had committed a misdemeanour could be detained until such time as he or she was brought before a judge or deputy official.

44. Ms. MAZAI said that a citizen could meet a member of the Committee, speak of breaches by Belarus of its international commitments and lobby the international community or international organizations regarding human rights issues without infringing the decree on terrorism.

45. The CHAIRPERSON invited the delegation to respond to the questions in part II of the list of issues.

46. Mr. SCHERBAU (Belarus), replying to question 12, said that the Citizens' Communications Act was not an alternative but merely a supplement to the system of legal redress through the courts. Under that Act and the presidential decree issued in April 1997 with a view to improving the processing of appeals, tens of thousands of citizens' complaints were received by public bodies each year. Overall statistics were not available but about 97,000 communications had been addressed to the Office of the President of the Republic in the two years 1995 and 1996 and over 18,000 citizens had been accorded personal interviews in the President's residence. The complaints had been very varied. About 25 per cent had merely consisted of comments or advice and required no decision. Another 25 per cent had concerned legal and procuratorial issues and had been forwarded to the Procurator's Office and other legal bodies. The remaining 50 per cent had been considered in terms of substance and the originators had obtained satisfaction in about 10 per cent of those cases. Citizens could, of course, also address communications to Parliament, ministries and local authorities. Under the Administrative Offences Code, a number of officials had been prosecuted for offences committed during the processing of communications.

47. A bill to institute the office of ombudsman was currently being drafted and had received presidential support. It would shortly be debated in Parliament.

48. Ms. DROZD (Belarus) said in response to question 13 that the existing legislation contained no provisions that discriminated against women. Under the "Women of the Republic of Belarus" programme, action was being taken to improve women's situation in the labour market, to expand their participation in decision-making and in the work of management bodies, to protect mothers and children, and to address social and psychological problems.

49. The Ministry of Social Security had established a Centre on Gender Information and Policy to study gender issues and to improve the situation of women.

50. In 1996, women had accounted for 51.6 per cent of the working population and 63.8 per cent of unemployed persons, compared with 80 per cent in 1991. The proportion of women employed in all ministries had grown significantly over the past five years. For example, 73.1 per cent of the staff of the Ministry of Justice and 68.9 per cent of the staff of the Ministry of Finance were women. There were five women members of the National Assembly and 18 women members of the Council of the Republic, including a Vice-Chairperson. A large proportion of judges and lawyers were women.

51. Domestic violence existed in Belarus as elsewhere. The Government felt that the problem could best be solved by raising living standards and changing attitudes. In December 1996 it had set up a Women's Crisis Centre for victims of sexual and domestic violence, where women were given medical, psychological, psychiatric and legal assistance. A training programme had been established for consultants who operated an emergency telephone line in the Centre. Many towns were setting up similar social support centres for women.

52. If a wife made a statement accusing her husband of rape, criminal charges were brought against him.

53. Mr. KOLAS (Belarus), replying to question 14, said that compliance with legislation governing places of detention was monitored by the Procurator's Office and special commissions had been established to supervise prison conditions. Convicted and detained persons were entitled to lodge complaints to any State, non-governmental or international organization.

54. Under an amnesty law promulgated on 6 November 1996, 30,000 prisoners had been released. To deal with overcrowding, which was one of the Government's main concerns, four former military settlements were being converted into prisons. Unfortunately, there were not sufficient financial resources to address the problem adequately. An increase in non-custodial sentences was therefore contemplated and provided for in the new draft criminal code and draft code of criminal procedure.

55. Representatives of an independent legal defence organization who had visited a number of prisons in Belarus in 1997 had concluded that conditions in all institutions visited were better than in other republics of the former Soviet Union and that there was no evidence of tension in relations between the staff and prisoners. Notification of the visit had been sent to the authorities only a short time before arrival and the visitors had themselves selected the institutions they wished to inspect.

56. However, he conceded that conditions were not always ideal and that the fate of prisoners sentenced to death was a special problem. He assured the Committee that the authorities had set themselves the task of addressing the issues concerned.

57. Mr. Bhagwati took the Chair.

58. Ms. KUPCHYNA (Belarus) said, in response to question 15, that Belarus was a multi-denominational country with no State religion. Religious freedom was guaranteed under article 16 of the Constitution and article 6 of the Freedom of Religion and Religious Organizations Act. About 80 per cent of

Belarusians belonged to the Orthodox Church, which nevertheless enjoyed no legal advantages over other religions. No religious organization received public funds. State assistance consisted of the return of church property and the restoration of buildings of historical and cultural interest. Places of worship had been returned to 16 different religious denominations.

59. People professing a particular religion such as Judaism or Islam were not classified as having a separate nationality. Such forms of classification survived, if at all, only as a popular misconception.

60. Turning to question 16, she said that according to the 1989 census there were 17 national minorities in Belarus, the most numerous being the Russians, Poles, Ukrainians, Jews, Tatars and gypsies. Under article 50 of the Constitution and article 4 of the National Minorities Act, every citizen had the right to maintain his or her national origin but nobody could be required to declare it either orally or in writing. The number of persons who had completed secondary or higher education was virtually the same for all groups, except for cases related to demographic or historical peculiarities. For example, most Jews, Russians and Ukrainians lived in urban areas and hence tended to record slightly higher than average figures for higher or specialized education and leading professions.

61. The main problems relating to enforcement of the rights of minorities lay in the fields of culture, education and information, for example the publication of school textbooks and training of teachers for schools using minority languages. Lack of funds was the main stumbling-block.

62. Belarus had been invited to ratify the Council of Europe Convention on the rights of persons belonging to national minorities and the matter was due to be debated in Parliament.

63. In response to question 17, she said that, under the Optional Protocol and article 61 of the Constitution, any citizen of Belarus could submit a communication to the Committee concerning the violation of rights protected by the Covenant. Any views adopted by the Committee would be implemented as a matter of priority.

64. Ms. Chanet resumed the Chair.

65. Mr. YALDEN reminded the delegation that arrangements similar to the services of the proposed ombudsman, the right to complain to the President's Office and the role of the Procurator's Office in defence of human rights had existed in the Soviet Union but had remained largely a dead letter. He wished to know whether there were effective independent monitoring bodies to deal with both individual and system-wide complaints. He had not received a satisfactory answer to his question about the existence of an independent press, an independent Bar or other independent bodies for the protection of human rights.

66. He had appreciated the statistics regarding women's participation in the workforce but a breakdown in terms of the status of the jobs performed would have given a more complete picture. It would also be helpful to have figures regarding the participation of minorities in employment in the public sector. He hoped that the figures could be provided in writing in due course.

67. Mr. POCAR said that the Committee had expressed concern in its previous concluding observations (CCPR/C/79/Add.5) about the retention of the classification of persons belonging to a particular religion, particularly Judaism, as a distinct nationality. The delegation had said that such classifications no longer existed but the Jews had twice been mentioned alongside Russians, Ukrainians and Poles in the response to the question on national minorities. The statistics on the ethnic mix in paragraph 8 of the core document (HRI/CORE/1/Add.70) also referred to Jews as a "nation" or "nationality". What was the true situation?

68. Mr. BHAGWATI said that military service was apparently compulsory for all males in Belarus. Was there any provision, in the light of article 18 of the Covenant, for alternative service in the case of conscientious objectors? Was the right to conscientious objection recognized? Secondly, he would like more details regarding the special chemical substances, and "the light and sound mechanisms with distracting effect", to which reference had been made. When could law officers use such mechanisms? He also understood that cameras had been installed in some prison cells. Had any prison officers been prosecuted in that connection?

69. Mr. SCHEININ said that the Committee had been told at the previous meeting that draft legislation recognizing the right of conscientious objection was under consideration. However, the proposed term of alternative service was 36 months, as opposed to 12 or 18 months in the case of military service. He pointed out that such a provision could be incompatible with articles 18 and 26 of the Covenant.

70. Ms. MEDINA QUIROGA said she had a question regarding rules of conduct for prison officers and conditions of detention. Were those rules, apparently issued by the Ministry of Internal Affairs, made public? And were prisoners allowed to have a copy? Did the rules also cover disciplinary measures to which prisoners might be subjected? Reference had been made to reduced rations for prisoners placed in solitary confinement for disciplinary reasons? Was that measure still in force?

71. Lord COLVILLE said that, at the previous meeting, Mr. Scheinin had asked why the Committee had not received any communication from prisoners on death row in Belarus. In reply, the delegation had said that the reason might be that lawyers were not fully aware of the relevant mechanisms. He therefore failed to see the point of article 61 of the Constitution, which provided for appeals to international bodies for the protection of the rights of citizens. He noted that Belarus had not acceded to the European Convention on Human Rights. The Committee, therefore, was the only international body available to the citizens of Belarus. If there were indeed difficulties in regard to freedom of expression and freedom of association as had been alleged, there should be ready access to the Committee so that it could look at the allegations and give a ruling which would, hopefully, be binding on the country if the ruling went against it. If a system was adopted in Belarus whereby all lawyers were licensed by the Ministry of Justice, the Government would clearly be responsible for their training. What was the Government doing about the shortcomings in lawyers' knowledge of international mechanisms? Was it proposing any urgent measures for training in that respect?

72. He noted that even before a case reached the stage of the exhaustion of domestic remedies, the current Constitution provided for the primacy of international norms. He knew that a large section of the Constitution contained most of the rights set out in the Covenant. Was the jurisprudence of the Committee used in the courts of Belarus to interpret those provisions and to give effect to the primacy of international law as stipulated in article 8 of the new Constitution? Many courts in other parts of the world used the Committee's norms to interpret rights of that kind. The Committee's jurisprudence could help in the correct interpretation of the constitutional rights of the citizens of Belarus.

73. Mr. ZAKHIA said that if the means of redress provided for in the Constitution and in the Optional Protocol could be included in the Code of Criminal Procedure itself, lawyers and jurists would be aware of them.

74. Mr. SCHERBAU (Belarus) said that although the Constitution provided for conscientious objection, the law regulating military conscription came within the purview of regional commissions. While, in principle, alternative service was possible, no detailed rules relating to it had as yet been established. The existing practice was that citizens who declared themselves conscientious objectors were assigned to a subsidiary service in which they would not bear arms or engage in military activity. A bill to replace the current law on military service was being prepared and would contain special provisions outlining all the criteria for its implementation. The Government had already approved the bill, which would be sent to the National Assembly. Its adoption, therefore, would settle the question, with Parliament perhaps curtailing the period of alternative service. The question had been discussed in the European Commission on Human Rights, but there had been no decision as yet on whether the period of such service should be the same as that of military service.

75. The fact that the Committee had not received any complaints from persons held on death row in Belarus was not fully accounted for by the fact that lawyers were not always aware of the machinery available. Citizens seeking to complain to the Human Rights Committee were given advice and support by the Ministry of Foreign Affairs. All human rights organizations in Belarus received the same kind of support, together with an explanation of the procedure. Their lawyers were informed of Belarusian participation in the Optional Protocol and of the procedure set out in the Constitution for complaints regarding human rights. He would look into the particular question of complaints from prisoners on death row. He had himself assisted persons who wished to complain to the Human Rights Committee.

76. Ms. MAZAI (Belarus) said that there had been suggestions from members of the Committee that the system for considering complaints of human rights abuses was the same as had existed in the former Soviet Union and had the same level of effectiveness. She agreed that there was, at the moment, no single organ which accepted human rights complaints and followed them up. A law establishing procedures in that connection was still in existence and for the time being the process was guided by that earlier legislation.

77. As to whether there was a truly independent press in Belarus, she would repeat the figures given earlier: 1,000 newspapers and magazines were published, of which 150 were founded or co-owned by State bodies. The rest were all independent.

78. With regard to the statistics on the situation of women, she accepted the Committee's comments. The problem in that connection was being discussed at all levels, with a view to finding a solution. The proportion of women in many parts of the State sector was very high, but few women held decision-making posts.

79. As to the presence of national minorities in the State sector, an analysis recently conducted by the Government showed that, in practical terms, their representation in State administrative bodies coincided more or less with the population structure revealed by the latest census.

80. On the religious classification of minorities, she repeated that some 120 nationalities were represented in the territory of Belarus, among them 17 large groups. There was, however, no compact group of any given nationality in the territory of Belarus, except that in the western oblasts there was a significant number of persons of Polish origin. At the same time, attention was given to the needs of the small minorities and the Government sought to help them preserve their national characteristics and culture.

81. The proposal that provisions should be added to the Code of Criminal Procedure to ensure that all lawyers were properly informed about the Optional Protocol was an interesting one. She assured the Committee that serious attention was being paid to disseminating information on the accession of Belarus to the Optional Protocol, and on the terms of the Protocol and the consequent opportunities available to Belarusians to defend their human rights. Attempts had recently been made by the Government to expand the network of educational institutions engaged in the training of jurists and lawyers. The issue was being discussed in the departments of international law recently established at various universities with a view to ensuring that not just specialists but the community at large were able to submit a whole range of problems to international scrutiny and to enjoy the opportunities afforded by the country's membership of international organizations.

82. Mr. KOLAS (Belarus) said that use of the devices mentioned by Mr. Bhagwati was provided for in article 20 of the Police Act. Police officers had the right to use such means, but only if other methods of carrying out their duties appeared impossible. The chemicals referred to were tear gas sprays and the like. The "light and sound mechanisms with distracting effect" gave off a sharp sound and a bright flare for a few seconds when they were operated, with the aim of distracting the attention of the persons against whom they were used. They were used only when a serious offence, such as murder or hostage-taking, was being committed. The law gave the police the right to carry such devices and to decide when to use them. However, whenever they were used, a written report must be submitted so that the Procurator's Office could assess whether or not they had been used in accordance with the regulations.

83. As to standards of conduct in the treatment of detainees, he confirmed that prisoners were required to be informed of the relevant rules. The rules were set out in the Criminal Code, a new draft of which was in the course of preparation. In reply to Ms. Medina Quiroga, he said that the rule regarding reduced rations for prisoners held in punishment cells still applied.

84. Ms. MAZAI (Belarus) said, with reference to Mr. Pocar's question, that Committee members' interpretation of particular concepts did not always coincide with that of the delegation. She would welcome a private consultation after the meeting, with a view to arriving at a mutual understanding which would allow the Committee's questions to be answered more accurately.

85. Mr. ANDREEV (Belarus) said, in response to Lord Colville, that the accepted primacy of international law was not as yet fully implemented in practice. However, as an example of the use of the Covenant in settling an internal legislative issue, he could cite a conclusion of the Constitutional Court regarding amendments and additions to the Criminal Code and the Code of Criminal Procedure and their compatibility with the new Constitution and the Covenant. The proposed changes in the Criminal Code reduced a whole series of penalties. However, legislation relating to criminal offences had no retroactive effect. The Supreme Court had raised before the Constitutional Court the question whether the new regulations complied with that provision as well as with the new Constitution and the Covenant. The Constitutional Court had concluded that the provision was incompatible with article 15 of the Covenant. That decision had made it possible for a large number of persons to benefit from the law reducing criminal penalties. Some 15,000 persons serving time had been released early, in keeping with the Constitutional Court's decision.

86. The point made by Mr. Yalden that there were no human rights defence mechanisms in Belarus was not altogether correct. There were, perhaps, imperfections in the application of legal standards, but a forum existed in which any person could seek counsel. In the past year, 30 per cent of the cases brought had enjoyed the pro bono services of lawyers. Consideration was being given to establishing a special State legal consultative body to help needy persons.

87. The CHAIRPERSON observed that the Committee had reached the final stage of its consideration of the report. She thanked the various members of the Belarusian delegation for their responses to the Committee's questions. The large number of questions had been prompted by the fact that the report itself failed to supply enough information or to comply exactly with the Committee's criteria for the submission of reports. Nevertheless, it had been submitted punctually and the delegation had proved very willing to engage in a dialogue.

88. In its concluding observations on the 1992 report, the Committee had been particularly understanding of the problems encountered by Belarus in a period of transition. Five years on, it was difficult to discern any substantial progress over 1992. Unfortunately, the country would appear to have been marking time and in some respects to have regressed. She hoped that

the current session of the Committee could help Belarus to advance further on the path to democracy. The Committee's concluding observations should not be regarded as criticism but as a way of helping the Government to understand what progress needed to be made.

89. Her chief concern was the pervading influence of the State on the fundamental freedoms guaranteed by the Covenant, in a way that harked back to the old regime. The citizens of Belarus were still subject to stringent police authority, there were many bodies with powers of arrest, and pre-trial detention at the pleasure of the Procurator's Office could be as long as 18 months. That redoubtable institution was a relic from the old Soviet Union and no real attempt had been made to change it or to ease its grip on the system of justice. All powers in that regard were concentrated in the executive branch. The fact that lawyers were to be licensed undoubtedly placed a certain constraint on the freedom of activity of the Bar, and without such freedom there was no real justice in the sense of the Covenant. Another sensitive issue was freedom of movement. In some republics of the former Soviet Union, the system of passes had disappeared. The system in Belarus, where exit permits could be withheld from persons in possession of State secrets or medical justification could be required for a prolonged stay abroad, was outdated. Freedom of expression was also subject to serious restrictions, and the difficulties encountered by representatives of NGOs wishing to attend the Committee's session revealed a lack of cooperation and tolerance in that respect. In the case of the freedom of the press, again a host of executive decrees existed, all of them restrictive in their effect. The many obstacles to freedom, even access to information, were such as to create fears among the population that were not favourable to the enjoyment of human rights or to the establishment of democracy.

90. The Committee had been told that the Covenant would soon be an integral part of the domestic law. For it to be truly applied as domestic law, an appropriate constitutional framework would be needed. Legislation would have to be brought into line with the Covenant in all the cases she had mentioned, and prohibitions reduced to the minimum required by the smooth running of society. She hoped that the fifth periodic report of Belarus, due in 1998, would yield more favourable and specific information to that effect.

91. Ms. MAZAI (Belarus) thanked all the members of the Committee, on behalf of her delegation, for their detailed consideration of the fourth periodic report, their desire to understand the situation in Belarus, and their comments on a wide number of issues. Those comments, and the Committee's concluding observations, would be given serious attention. The Committee's proceedings would be carefully analysed and the results conveyed to the President, the Government, Parliament, and the public at large. Although not everything possible had been done in the last five years, she assured the Committee of the country's desire to continue to move forward in the construction of a State worthy of a party to the Covenant. She apologized for any weaknesses in the quality and form of the fourth report and assured the Committee that the fifth report would be in total keeping with the reporting guidelines.

The meeting rose at 6.05 p.m.